of Labor. This leads the author to emphasize the freedom of the individual as against both the state and the group. The problem is evidently to find a mean between despotic unity and disintegration. He does not, it would seem, solve this problem, but he blocks out the factors which will determine its solution. Devices like federalism and the separation of powers help keep authority within bounds, but liberty is less a tangible substance than an atmosphere. The most carefully planned machinery of government will break down unless it is operated by men who think. "Everyone who has engaged in public work is sooner or later driven to admit that the great barrier to which he finds himself opposed is indifference." [14] "Thought is the one weapon of tried utility in a difficult and complex world." [15] Consequently, the mental qualities and methods of the electorate, the three branches of the government, the leaders of industrial groups, and the civil service, become a decisive element in political life.

Repression of thought in the electorate and the civil service will produce in the end just the kind of spirit that we want to get rid of, — the revolutionary spirit. The experience of France, set forth in the last chapter of the book, shows this conclusively. It is all very well to say that men ought to be loyal to the state. What do we mean by the state? After all, it comes right down to the government that we deal with, and the government comes down to the human beings that we deal with, which means those who will on occasion put us into the hands of the police. If the individuals in the legislatures and the departments of justice and on the bench do not stand for the best things men stand for, — for the development of mind and spirit, and the search for truth, — men begin to wonder whether, after all, that government ought to endure. We cannot love the state as a mystical unity if that unity as we actually face it prevents us from living a true human life. So, in order to make people loyal to the state, you must make the state the kind of institution that they want to be loyal to. Such is the lesson of this very able book.

Z. C., JR.

THE CONFLICT OF LAWS RELATING TO BILLS AND NOTES, preceded by a Comparative Study of the Law of Bills and Notes. By Ernest G. Lorenzen, Professor of Law in Yale University. New Haven: Yale University Press. 1919. pp. 337.

The principal part of this work consists of several articles recently printed in law magazines; but much additional value has been given to them by including the law of Latin-America and of Japan among those compared in the text. A lengthy Appendix has been added, containing the American Negotiable Instruments Act, the English Bills of Exchange Act, the Convention of the Hague on Bills and Notes, and the Uniform Law which formed part of it, together with very useful comparative tables of sections. An eight-page bibliography follows.

It is a pleasure to have so painstaking and scholarly a work. The concise pages of the text represent a thorough study of the subject, a careful thinking through, a clear and logical arrangement of the matter, a sufficiently full reference to authorities, and the matured conclusion of the author on every point. As one studies the work one wonders not that so much could be made out of a narrow subject, but that so much could be carefully stated and considered in so small a compass.

The usefulness of the book to the lawyer and the merchant is apparent. We look for a wonderful expansion of commerce; we are preparing for commercial relations with every part of the world. Whatever else this may entail, it cer-

[14] Pages 107–108. [15] Page 188.

tainly calls for an extensive exchange of bills, drafts, and credits with all countries. Here may be found the law to which these instruments must conform.

Professor Lorenzen's "Discussions," which follow in each case the collection of each country's rules for the Conflict of Laws, seem to be based upon a positivist philosophy: regarding each question in dispute between the different countries as a case for compromise, without regard to its effect upon the general body of any particular law. This is the principle upon which the Hague Conventions proceed. A Professor of Engineering once drafted a city charter on the principle, as he said, on which he would build a bridge; that is, he compared all existing city charters, and selected the provision which pleased him best for each paragraph of his own charter. A bridge is made; but law, like a city charter, is born, not made, if it is to prove viable. A sentence of Professor Lorenzen's is suggestive on this point: "Although the Convention of the Hague [of 1912] has not yet been ratified by any of the signatory powers, it expresses nevertheless the general point of view obtaining in foreign countries with reference to bills and notes." It may be doubted whether any power short of direct sovereign power can force upon a country outland ideas of law; sometimes not even that, as witness Professor Ehrlich's illuminating studies as to the law of Bukowina. May we not fear that any effort to create mechanical uniformity of law throughout the world is doomed to failure?

An excellent example of Professor Lorenzen's method is his discussion of the law governing the "Obligation" of the bill or note (page 108). He first marshalls his evidence, — which is the opinion of a considerable number of continental writers, a few decisions of German courts, and an equal number of English and American decisions, together with references to Story. Long extracts are given from Savigny, Bar, Wächter, Story, Lainé, Hertius, Paul Voet, and Lord Mansfield's decision in *Robinson* v. *Bland*. All the arguments are weighed, and a final preference expressed in favor of the prevailing opinion, that the *lex loci contractus* should govern the obligation.

This method makes of law a series of dead rules. Law is not that; it is a living, growing thing, which may be changed in detail, but cannot be dismembered and live.

The same weighing of evidence, the same conclusion reached on the evidence, the preference for a compromise rule quite independent of any general principle and regardless of the general body of law appears throughout the work. It is the method of the bridge-builder. It may be admitted that this method is necessary if one is to bridge the gap between Anglo-American and Continental law; but such a bridge can never be built. Let us frankly admit that the Common Law is not the Civil Law; let us bewail the fact, if necessary; let us understand the Civil Law, with such sympathetic knowledge as one can acquire of a foreign system to which he was not born; but let us not try to create a legal Esperanto.

Professor Lorenzen's high powers, his scholarship, his industry, his patience, his judgment illumine his book, and he has written a work for which the profession owes him much; but not the least interesting thing about it is its promise of fine work to come, when he gives us more at length the results of his study in the strictly common-law doctrines of the Conflict of Laws.

JOSEPH H. BEALE.

CONSTITUTIONAL POWER AND WORLD AFFAIRS. By George Sutherland, former United States Senator from Utah. New York: Columbia University Press. 1919. pp. 202.

The wars in which this country has been engaged have given rise to great questions of national policy, of political morality, and of constitutional power. With the Spanish War we definitely departed from our traditional policy of